

IN THE UNITED STATES DISTRICT COURT FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

TIMOTHY WAYNE BARNETT,	)	
	)	
Petitioner,	)	
	)	
v.	)	CASE NO. 2:05-cv-408-MEF
	)	(WO)
RALPH HOOKS, WARDEN, <i>et al.</i> ,	)	
	)	
Respondents.	)	

**MEMORANDUM OPINION AND ORDER**

This cause is before the Court on the Recommendation of the Magistrate Judge (Doc. # 14) that this petition for habeas relief be dismissed with prejudice because it was not filed within the one-year limitation period established by 28 U.S.C. § 2244(d)(1) for applications for writ of habeas corpus by a person in custody pursuant to the judgment of a state court. Plaintiff Timothy Wayne Barnett ("Barnett") filed an Objection (Doc. # 15) in which he submits exhibits purporting to show that the limitations period for habeas relief should be equitably tolled because extraordinary circumstances worked to prevent him, despite his diligence, from timely filing his petition. Specifically, Barnett alleges that he initially filed his Rule 32 petition -- the filing of which would have statutorily tolled the limitations period for habeas relief -- prior to the date on which the limitations period ran. As the exhibits neither constitute credible evidence that Barnett filed a Rule 32 petition before the limitations period for habeas relief ran nor demonstrate why Barnett is entitled to the extraordinary remedy of equitable tolling, Barnett's objections are without merit and are due to be overruled.

Therefore, upon an independent review of the file in this case, it is hereby ORDERED as follows:

(1) Barnett's Objection (Doc. # 15) is OVERRULED.

(2) The Recommendation of the Magistrate Judge (Doc. # 14) is ADOPTED.

The Court will enter a separate final judgment consistent with this Order.

DONE this the 23rd day of May, 2007.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE